

**OCCUPATIONAL SAFETY
AND HEALTH STANDARDS BOARD**

2520 Venture Oaks Way, Suite 350
Sacramento, CA 95833
(916) 274-5721
FAX (916) 274-5743
www.dir.ca.gov/oshsb



Attachment No. 2

INITIAL STATEMENT OF REASONS**CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Chapter 4, Subchapter 7, Article 25, Section 3657
of the General Industry Safety Orders**

Elevating Employees with Industrial Trucks**SUMMARY**

This staff-initiated rulemaking action is based on an evaluation of respective requirements contained in Sections 3646, 3648 and 3657 with regard to elevating employees using elevating work platforms, aerial devices, and industrial trucks, respectively. Sections 3646 and 3648 both contain requirements prohibiting employees from sitting, standing, or climbing on guardrails or baskets, or using planks, ladders, or other devices to gain greater working height or reach. Section 3657, however, does not contain such requirements. Moreover, since Section 3657 is a vertical standard regulating the practice of elevating employees using industrial trucks, it may be difficult to apply either Section 3646(e) or 3648(e) for enforcement purposes. Board staff intends to correct this oversight by amending Section 3657 using language similar to subsection (e) of Sections 3646 and 3648.

SPECIFIC PURPOSE AND FACTUAL BASIS OF PROPOSED ACTION**Section 3657. Elevating Employees with Lift Trucks.**

This section contains requirements pertaining to the practice of elevating an employee on a platform using a powered industrial truck and includes, but is not limited to: platform design, securing the platform, platform guardrail/toeboards, platform free fall control, falling object protection, and operating rules.

Existing subsection (a) outlines various specifications for platforms of industrial trucks when it is deemed necessary to elevate employees via this method. Nonsubstantive, editorial revisions are proposed to revise subsection (a) to make it consistent with similar language contained throughout Title 8, e.g., Section 3646(a), which is proposed to read, "Employees shall not be elevated using an industrial truck

unless the following conditions are met.” The proposed revisions are necessary for clarification and consistency purposes.

Since the Division has observed an employee utilizing the guardrail of an industrial truck platform to increase height, new subsection (h) is proposed which prohibits employees from sitting, climbing or standing on the platform guardrails or using planks, ladders or other devices to gain elevation. Having proposed to add new subsection (h), existing subsection (h) is proposed for relettering as subsection (i). For added emphasis and implementation, new operating rule (9) is proposed, under proposed new subsection (i), which requires the employer to instruct employees not to sit, climb or stand on the platform guardrails or use planks, ladders or other devices to gain elevation prior to elevating personnel. The proposed revisions are necessary to ensure that employees do not utilize these unsafe means to gain additional altitude or reach while on industrial truck platforms, consistent with existing requirements pertaining to elevating work platforms and aerial devices. The proposed revisions would require the employer to make slight administrative amendments to their injury/accident prevention program to address these proposed prohibitions.

DOCUMENTS RELIED UPON

None.

REASONABLE ALTERNATIVES THAT WOULD LESSEN ADVERSE ECONOMIC IMPACT ON SMALL BUSINESSES

No reasonable alternatives were identified by the Board and no reasonable alternatives identified by the Board or otherwise brought to its attention would lessen the impact on small businesses.

SPECIFIC TECHNOLOGY OR EQUIPMENT

This proposal will not mandate the use of specific technologies or equipment.

COST ESTIMATES OF PROPOSED ACTION

Costs or Savings to State Agencies

No costs or savings to state agencies will result as a consequence of the proposed action.

Impact on Housing Costs

The Board has made an initial determination that this proposal will not significantly affect housing costs.

Impact on Businesses

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Private Persons or Businesses

The Board is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Costs or Savings in Federal Funding to the State

The proposal will not result in costs or savings in federal funding to the state.

Costs or Savings to Local Agencies or School Districts Required to be Reimbursed

No costs to local agencies or school districts are required to be reimbursed. See explanation under “Determination of Mandate.”

DETERMINATION OF MANDATE

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the regulation does not constitute a “new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution.”

The California Supreme Court has established that a “program” within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (County of Los Angeles v. State of California (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See City of Anaheim v. State of California (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers - state, local and private - will be required to comply with the prescribed standard.

EFFECT ON SMALL BUSINESSES

The Board has determined that the proposed amendments may affect small businesses. However, no economic impact is anticipated.

ASSESSMENT

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

ALTERNATIVES THAT WOULD AFFECT PRIVATE PERSONS

No reasonable alternatives have been identified by the Board or have otherwise been identified and brought to its attention that would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.